

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER LYNN THOMPSON,
individually and on behalf of all persons
similarly situated,

Plaintiff,

v.

PEAK ENERGY SERVICES USA, INC.

Defendant.

Civil Action No.: 2:13-cv-00266-CRE

ELECTRONICALLY FILED

STIPULATION REGARDING NOTICE PURSUANT TO 29 U.S.C. § 216(b)

Plaintiff Christopher Lynn Thompson (“Plaintiff”) and Peak Energy Services USA, Inc. (“Peak” or “Defendant”), through their undersigned counsel, hereby stipulate and agree as follows:

1. On October 4, 2013, the Court entered an Order Granting In Part and Denying in Part Plaintiff’s Motion to Facilitate Notice Pursuant to 29 U.S.C. § 216(b) (ECF No. 28) and Provisionally Certifying FLSA Classification For Purposes of Notice to Potential Plaintiffs (ECF No. 40).

2. The Court ordered Counsel to meet and confer within seven (7) days, to discuss Plaintiff’s request that Defendant provide an electronic database of the names, last known mailing addresses, last known e-mail addresses, last known telephone numbers, dates of work, and Social Security Numbers of all members of the class.

3. Since the Court’s order, the parties have met and conferred regarding the production of the class list and an appropriate notice program. The parties have agreed to the provision of notice, as set forth below.

4. On October 14, 2013, Defendant provided Plaintiff's counsel with an electronic dataset containing the names, last known mailing addresses, and dates of work of 260 current and former Peak employees who worked as Solids Control Technicians at any time between February 20, 2010 and June 10, 2011 ("Class Members").

5. On October 21, 2013, Defendant supplemented this list to include last known email addresses.

6. Plaintiff has retained a third party notice administrator, The Angeion Group (the "Notice Administrator"), to send notices to Class Members and collect Opt-In Consent Forms.

7. The Notice Administrator shall run the list of Class Members through the U.S. Postal Service's National Change of Address database ("NCOA"), and will perform address searches using public and proprietary electronic resources which collect data from various sources such as utility records, property tax records, motor vehicle registration records (where allowed) and credit bureaus.

8. On October 18, 2013, the Notice Administrator sent Notice and Opt-In Consent Forms via First Class mail to all Class Members with an enclosed self-addressed stamped return envelope. The postmark deadline for submitting Opt-In Consent Forms is December 17, 2013.

9. By no later than October 25, 2013, the Notice Administrator shall send an email with a copy of the Notice pasted into the text and a copy of the Notice and Opt-In Consent Form as attachments to all Class Members for whom the Notice Administrator has email addresses.

10. If a Notice is returned as undeliverable under the method provided in paragraph 7, Plaintiff will contact Defendant and Defendant will provide within five (5) business days the individual's Social Security Number and last known telephone number directly to the Notice Administrator (and not to Plaintiff's counsel) for additional address searches. If a Notice is

returned as undeliverable under the method provided in paragraph 8, Plaintiff will contact Defendant and Defendant will provide within five (5) business days *only* the individual's the last known telephone number directly to the Notice Administrator (and not to Plaintiff's counsel), but it will not provide the individual's Social Security Number. When contacting individuals under this paragraph using the last known telephone number, the Notice Administrator shall (1) introduce itself as the Notice Administrator for this lawsuit; (2) indicate that the individual is a potential class member of this lawsuit, because he or she worked as a Solids Control Technician for Defendant between February 20, 2010 and June 10, 2011; (3) indicate that a Notice regarding the lawsuit was returned as undeliverable; and (4) request a current mailing address for the individual. If asked any questions regarding the lawsuit, the Notice Administrator will indicate that all relevant information is contained in the Notice, and provide contact information for Plaintiff's counsel. The Notice Administrator will not provide any additional information. Social Security Numbers and last known telephone numbers will not be used for any other reasons, except as provided in this paragraph. The Notice Administrator will agree to terms suitable to Defendant to protect Social Security Numbers in a secure environment and to purge the Social Security Numbers at the close of the 60 day notice period.

11. The parties are not in agreement as to whether a reminder or duplicate notice, sent 30 days after the mailing date, is appropriate. Plaintiff will file an appropriate motion with the Court if the parties are unable to reach agreement.

12. Within a reasonable time after the initial mailing date, and continuing until the end of the opt-in period, Defendant will post a copy of the Notice in appropriate, conspicuous, visible and accessible places at each of Defendant's facilities where it employs Class Members, including in any on-site trailers used at Defendant's customer's property.

13. All Opt-In Consent Forms will be deemed to have been filed with the Court on the date that they are stamped by the Notice Administrator as received, and Plaintiff's Counsel shall file these forms on the docket on a weekly basis via ECF.

October 22, 2013

Respectfully submitted,

s/ Sarah R. Schalman-Bergen

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